

OFFICE OF SPECIAL MASTERS

No. 02-**{redacted}**V

(Filed: March **{redacted}**, 2006)

Not for Publication

DONNA **{redacted}**, *

Petitioner, *

proffer; damages

v. *

SECRETARY OF HEALTH AND HUMAN SERVICES, *

Respondent. *

DECISION¹

On **{redacted}**, I filed a Ruling concluding that petitioner is entitled to an award in this case, pursuant to the National Childhood Vaccine Injury Act of 1986, as amended (“the Act”). 42 U.S.C. § 300aa-10 *et seq.* On March 20, 2006, respondent filed a “Proffer on Award of Damages.” On March 22, 2006, petitioner’s counsel, Ronald Homer, represented telephonically to my staff that petitioner accepts that Proffer as a reasonable measure of the amount of the award appropriate in this case.

I have reviewed respondent’s Proffer, and find that it describes appropriate compensation in this case pursuant to 42 U.S.C. § 300aa-15(b). I hereby order that compensation be awarded based on the Proffer. I order that respondent make a lump sum payment and purchase on annuity contract as follows:

1. Lump sum

A lump sum payment in the amount of \$865,509.64 shall be payable to the petitioner. This amount represents all compensation for past unreimbursable expenses, first-year future unreimbursable expenses, past and future “pain and suffering,” and “lost earnings.”

2. Annuity

¹At the request of the petitioner, identifying information has been redacted.

I consider it in petitioner's best interest that the compensation for future unreimbursable expenses beyond the first year post-judgment be paid in the form of an annuity, which annuity shall be purchased as soon as practicable after entry of judgment. Accordingly, pursuant to 42 U.S.C. § 300aa-15(f)(4), I order respondent to purchase, and take ownership of, an annuity contract from an insurance company for the benefit of petitioner, pursuant to which the insurance company will agree to make periodic payments for the rest of petitioner's life, commencing on the first anniversary of the date of judgment. The amount of the annuity payments in each year will be calculated based on the Appendix A attached to respondent's Proffer, which I have attached to this Decision.

The insurance company must meet the following criteria:²

- 1) has a minimum of \$250,000,000 of capital and surplus, exclusive of any mandatory security valuation reserve; and
- 2) has one of the following ratings from two of the following rating organizations:
 - a) A.M. Best Company: A++, A+, A+g, A+p, A+r or A+s;
 - b) Moody's Investors Service Claims Paying Rating: Aa3, Aa2, Aa1 or Aaa;
 - c) Standard and Poor's Corporation Insurer Claims-Paying Ability Rating: AA-, AA, AA+ or AAA;
 - d) Fitch Credit Rating Company, Insurance Company Claims Paying Ability Rating: AA-, AA, AA+ or AAA.

In the absence of a motion for review filed pursuant to RCFC, Appendix B, the clerk is directed to enter judgment in accordance with this Decision.

IT IS SO ORDERED.

George L. Hastings, Jr.
Special Master

(Attachment)

²These criteria are adapted from the Proffer; these criteria are obviously based upon the December 1990 draft of the Uniform Periodic Payment of Judgments Act.

ANALYSIS OF LIFE CARE ITEMS FOR ██████ IN PRESENT YEAR DOLLARS

Prepared for Linda Renzi, Esq.
 Petitioner: ██████ D.O.B. ██████ 1967

Year	Year From Judgment	Dental 5%	Alternative Therapies 4%	Home Health Aide 4%	Home Health Aide 4%	Home Modification 4%	Hospital Bed 4%	Med. B&D Premium 5%	Med. D Copays 5%
2006	0	250.00	2,000.00	16,640.00			1,395.00		
2007	1	250.00	2,000.00	16,640.00			139.50		
2008	2	250.00	2,000.00	16,640.00		50,000.00	139.50		
2009	3	250.00	2,000.00	16,640.00			139.50		
2010	4	250.00	2,000.00	16,640.00			139.50		
2011	5	250.00	2,000.00	16,640.00			139.50		
2012	6	250.00	2,000.00	16,640.00			139.50		
2013	7	250.00	2,000.00	16,640.00			139.50		
2014	8	250.00	2,000.00	16,640.00			139.50		
2015	9	250.00	2,000.00	16,640.00			139.50		
2016	10	250.00	2,000.00	16,640.00			139.50		
2017	11	250.00	2,000.00	16,640.00			139.50		
2018	12	250.00	2,000.00	16,640.00			139.50		
2019	13	250.00	2,000.00	16,640.00			139.50		
2020	14	250.00	2,000.00	16,640.00			139.50		
2021	15	250.00	2,000.00	16,640.00			139.50		
2022	16	250.00	2,000.00	16,640.00			139.50		
2023	17	250.00	2,000.00	16,640.00			139.50		
2024	18	250.00	2,000.00	16,640.00			139.50		
2025	19	250.00	2,000.00	16,640.00			139.50		
2026	20	250.00	2,000.00	16,640.00			139.50		
2027	21	250.00	2,000.00				139.50		
2028	22	250.00	2,000.00		46,592.00	20,000.00	139.50		
2029	23	250.00	2,000.00		46,592.00		139.50		
2030	24	250.00	2,000.00		46,592.00		139.50		
2031	25	250.00	2,000.00		46,592.00		139.50		
2032	26	250.00	2,000.00		46,592.00		139.50		
2033	27	250.00	2,000.00		46,592.00		139.50		
2034	28	250.00	2,000.00		46,592.00			1,383.40	2,083.47
2035	29	250.00	2,000.00		46,592.00			1,383.40	2,083.47
2036	30	250.00	2,000.00		46,592.00			1,383.40	2,083.47
2037	31	250.00	2,000.00		46,592.00			1,383.40	2,083.47
2038	32	250.00	2,000.00		46,592.00			1,383.40	2,083.47
2039	33	250.00	2,000.00		46,592.00			1,383.40	2,083.47
2040	34	250.00	2,000.00		46,592.00			1,383.40	2,083.47
2041	35	250.00	2,000.00		46,592.00			1,383.40	2,083.47
2042	36	250.00	2,000.00		46,592.00			1,383.40	2,083.47
2043	37	250.00	2,000.00		46,592.00			1,383.40	2,083.47
2044	38	250.00	2,000.00		46,592.00			1,383.40	2,083.47
2045	39	250.00	2,000.00		46,592.00			1,383.40	2,083.47
2046	40	250.00	2,000.00		46,592.00			1,383.40	2,083.47

Listed years represent benefit periods and do not represent calendar years.
 A benefit period runs from the anniversary of the date of judgment in the listed year up to the anniversary of the date of judgment in the following year.

ANALYSIS OF LIFE CARE ITEMS FOR ██████ IN PRESENT YEAR DOLLARS

Prepared for Linda Renzi, Esq.
 Petitioner ██████ D.O.B. ██████ 1967

Year	Year From Judgment	Hospital Mattress 4%	Commode 4%	Voice Recog. Software 4%	Walker 4%	Electric Scooter 4%	Health Insurance 5%	Prescription Coverage 5%	Annual Totals
2006	0	800.00	149.00	500.00	129.64	1,500.00	1,028.00	976.00	25,367.64
2007	1	80.00	29.80	250.00	25.93	300.00	1,028.00	380.00	71,123.23
2008	2	80.00	29.80	250.00	25.93	300.00	1,028.00	380.00	21,123.23
2009	3	80.00	29.80	250.00	25.93	300.00	1,028.00	380.00	21,123.23
2010	4	80.00	29.80	250.00	25.93	300.00	1,028.00	380.00	21,123.23
2011	5	80.00	29.80	250.00	25.93	300.00	1,028.00	380.00	21,123.23
2012	6	80.00	29.80	250.00	25.93	300.00	1,028.00	380.00	21,123.23
2013	7	80.00	29.80	250.00	25.93	300.00	1,028.00	380.00	21,123.23
2014	8	80.00	29.80	250.00	25.93	300.00	1,028.00	380.00	21,123.23
2015	9	80.00	29.80	250.00	25.93	300.00	1,028.00	380.00	21,123.23
2016	10	80.00	29.80	250.00	25.93	300.00	1,028.00	380.00	21,123.23
2017	11	80.00	29.80	250.00	25.93	300.00	1,028.00	380.00	21,123.23
2018	12	80.00	29.80	250.00	25.93	300.00	1,028.00	380.00	21,123.23
2019	13	80.00	29.80	250.00	25.93	300.00	1,028.00	380.00	21,123.23
2020	14	80.00	29.80	250.00	25.93	300.00	1,028.00	380.00	21,123.23
2021	15	80.00	29.80	250.00	25.93	300.00	1,028.00	380.00	21,123.23
2022	16	80.00	29.80	250.00	25.93	300.00	1,028.00	380.00	21,123.23
2023	17	80.00	29.80	250.00	25.93	300.00	1,028.00	380.00	21,123.23
2024	18	80.00	29.80	250.00	25.93	300.00	1,028.00	380.00	21,123.23
2025	19	80.00	29.80	250.00	25.93	300.00	1,028.00	380.00	21,123.23
2026	20	80.00	29.80	250.00	25.93	300.00	1,028.00	380.00	21,123.23
2027	21	80.00	29.80	250.00	25.93	300.00	1,028.00	380.00	71,075.23
2028	22	80.00	29.80	250.00	25.93	300.00	1,028.00	380.00	51,075.23
2029	23	80.00	29.80	250.00	25.93	300.00	1,028.00	380.00	51,075.23
2030	24	80.00	29.80	250.00	25.93	300.00	1,028.00	380.00	51,075.23
2031	25	80.00	29.80	250.00	25.93	300.00	1,028.00	380.00	51,075.23
2032	26	80.00	29.80	250.00	25.93	300.00	1,028.00	380.00	51,075.23
2033	27			250.00		300.00			52,858.87
2034	28			250.00		300.00			52,858.87
2035	29			250.00		300.00			52,858.87
2036	30			250.00		300.00			52,858.87
2037	31			250.00		300.00			52,858.87
2038	32			250.00		300.00			52,858.87
2039	33			250.00		300.00			52,858.87
2040	34			250.00		300.00			52,858.87
2041	35			250.00		300.00			52,858.87
2042	36			250.00		300.00			52,858.87
2043	37			250.00		300.00			52,858.87
2044	38			250.00		300.00			52,858.87
2045	39			250.00		300.00			52,858.87
2046	40			250.00		300.00			52,858.87

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